

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
PICTURE PATENTS, LLC., :  
Plaintiff, : Case No. 07 CV 05465 (JGK) (HBP)

vs. :

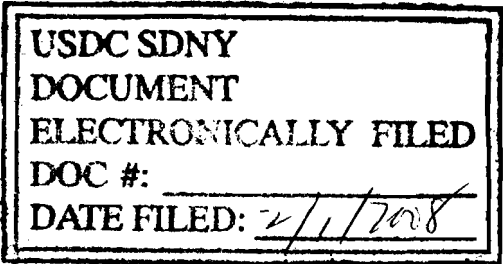
TERRA HOLDING LLC and  
HALSTEAD PROPERTY LLC  
Defendants. :

----- X  
PICTURE PATENTS, LLC., :  
Plaintiff, : Case No. 07 CV 05567 (JGK) (HBP)

vs. :

AEROPOSTALE, INC.  
Defendant. :

----- X



RULE 26(f) PROPOSED CIVIL CASE  
DISCOVERY PLAN AND SCHEDULING ORDER<sup>1</sup>

The parties have conferred and, pursuant to Rules 26(f) and 16 of the Federal Rules Civil Procedure, submit the following proposed discovery plan and scheduling order to the Court:

Joinder of Additional Parties

Joinder of additional parties may be accomplished 2/1/08  
without leave of Court

Filing of Amended Pleadings

Amended pleadings may be filed without leave of Court 3/1/08

<sup>1</sup> The parties in both the above captioned cases have agreed on the schedule set forth here for the two cases but all parties reserve their rights to seek clarification on the extent to which the two cases should be formally consolidated, if at all.

### Topics for Discovery

1. Plaintiff: Infringement, Damages including the amount of reasonable royalty, Willfulness
2. Defendants: Infringement, Damages, Affirmative Defenses including e.g. prosecution history, prior art, obviousness, royalty, market factors, laches

### Discovery

- |    |   |           |            |
|----|---|-----------|------------|
| 1. | Rule 26(a) disclosures are to be served   |           | 2/12/08    |
| 2. | All fact discovery is to be completed   |           | 9/15/08    |
|    |   | Plaintiff | Defendants |
| 3. | Contention Interrogatories on Infringement, Invalidity and Unenforceability may be served By Defendants | 5/1/08    | 3/1/08     |
| 4. | Contention Interrogatories on Infringement may be served by Plaintiff                                   | 6/1/08    | 4/1/08     |
| 5. | Contention Interrogatories on Invalidity and Unenforceability may be served by Plaintiff                | 5/1/08*   | 4/1/08     |
| 6. | Plaintiff shall submit a claim chart reflecting the Claims at issue to the Defendants                   | **        | 2/15/08    |

\* Alternatively, on the same date that Defendants may serve contention interrogatories on infringement.

\*\* Claim charts are unnecessary given that Plaintiff will provide its infringement contentions in response to Defendants interrogatories to be served by 4/1/08 or 5/1/08 (See above).

### Electronically Stored Information

The parties agree to confer and develop a plan with respect to the production of electronically stored information.

### Expert Discovery

1. Opening expert report for the party bearing the burden of proof shall be served 10/1/08

2. Rebuttal expert report shall be served 11/1/08
3. Expert discovery closes 11/24/08

Pre-Trial Order

The parties will submit a pre-trial order in a form conforming with the Federal Rules of Civil Procedure and the Court's instructions on 12/19/08

Pre-Trial Conference

The parties will ~~hold~~ a pre-trial conference pursuant to Fed. R. Civ.P. 16(d) on \_\_\_\_\_.

Protective Order

The parties agree that a protective order governing the exchange of confidential information will be necessary in this case and will file a stipulated protective order.

Trial Length

This case will be tried by a jury. The parties anticipate that trial will last 3-4 trial days.

Respectfully submitted,

Counsel

FOR PICTURE PATENTS, LLC:

\_\_\_\_\_  
Thomas J. Parker, Esq.  
Amy Manning, Esq.  
Alston & Bird LLP  
90 Park Avenue  
New York, New York 10016  
Tel. (212) 210-9400  
Fax (212) 210-9444

FOR TERRA HOLDINGS LLC and  
HALSTEAD PROPERTY LLC:

\_\_\_\_\_  
Andrew P. Saulitis  
Law Offices of Andrew P. Saulitis P.C.

*So ordered,*  
*[Signature]*  
*2/1/08. U.S.D.J.*

555 Madison Avenue  
New York, New York 10022-3301  
Tel. (212) 459-0900

FOR AEROPOSTALE, INC:

---

Janet L. Cullum, Esq.  
Cooley Godward Kronish LLP  
1114 Avenue of Americas  
New York, New York 10036-7798  
Tel. (212) 479-6000  
Fax (212) 479-6275

SO ORDERED

Dated: \_\_\_\_\_, 2008

---

Honorable John G. Koeltl  
United States District Judge